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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,324	11/26/2003	Shinji Seto	056208.52936US	8418

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EXAMINER

FISHMAN, MARINA

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s) dk	
	10/721,324	SETO ET AL.	
	Examiner	Art Unit	
	Marina Fishman	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/26/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General status

1. This is a First Action on the Merits. Claims 1 - 10 are pending in the case and are being examined.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

3. Claim 2, 3, 5 - 10 are objected to because of the following informalities:

In claim 4, line 4, "r" should be corrected as --for--.

In claim 4, line 8, "said solenoid" should be corrected as --said solenoids--.

In claims 2, 3, 5 - 10, "A fluid pressure" should be corrected as --The fluid pressure--.

In Claim 1 Applicant introduces "control valves" and "driving portions". In Claim 2 Applicant refers to a singular element: "said control valve" and "said driving portion". This is not consistent. Similar deficiencies have been found in claims 4, 6 and 7. Applicant should amend claim to read -each of said control valves-- and -each of said driving portions--.

The Examiner has pointed out only few of the deficiencies, the Applicant is required to review all the claims and make necessary corrections.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors (Claim 7, lines 6- 8).

The use of "and/or" in the claims 1 and 4 renders it impossible to determine the metes and bounds of the claims.

In claim1, Applicant should clarify structure of "driving portions, each ... in the same axis thereof". It is unclear if Applicant is referring to each pair (driving portion & valve) being on the same axis or to all the elements (driving portion & opening valve and driving portion & closing valve) being on the same axis.

Claims 9 and 10 recite the limitation "said projection portion" in lines 7 and 3, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Daimon et al. [US 5,804,787].

Daimon et al. disclose a fluid pressure cylinder for opening and/or closing a contact comprising:

- control valves [24, 25] for use of open and/or close operation, for bringing the fluid pressure cylinder into an opened-circuit operation and a closed-circuit operation;
- driving portions [22, and rod above element 24], each being provided in each of those control valves, wherein said driving portions and said control valves are disposed in a same axis thereof.

Claims 1, 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamashita et al. [US 5,353,594].

Yamashita et al. disclose a fluid pressure cylinder for opening and/or closing a contact comprising:

- control valves [28, 38] for use of open and/or close operation, for bringing the fluid pressure cylinder into an opened-circuit operation and a closed-circuit operation;
- driving portions [36, 35], each being provided in each of those control valves, wherein said driving portions and said control valves are disposed in a same axis thereof.

Regarding Claim 4, Yamashita et al. disclose a fluid pressure cylinder for opening and/or closing a contact having a solenoid [35, 36]

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 8 - 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. [US 5,353,594] in view Nogami et al. [US 5,750,950]

Regarding Claim 2, Yamashita et al. disclose a fluid pressure cylinder for opening and/or closing a contact having a solenoid [35, 36] as a driving portion, Yamashita et al. however did not disclose that each of the control valves is a poppet valve. Nogami et al. disclose a poppet valve [Column 6, lines 64 +]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the poppet valves in Yamashita et al., as suggested by Nogami et al., since the poppet valves are well known in the art and provided in order to prevent the circuit opening/closing control valves from erroneously operated.

Regarding Claim 3, Yamashita et al. disclose a plunger [33, 34] and valve body [30] having engagement portions, and each of those engagement portions has a length, so that it is longer at the valve body side than that at the plunger side.

Claims 5 - 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. [US 5,353,594] in view Ben-Asher et al. [US 6,702,252].

Regarding Claims 5 - 7, Yamashita et al. disclose the instant claimed invention except for a projection portion at a tip of the plunger. Ben-Asher et al. disclose armature for solenoid device having a plunger portion [20] with a shoulders [22]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the projection portion at the tip of the plunger in Yamashita et al., as suggested by Ben-Asher et al., in order to keep two elements mechanically connected.


Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marina Fishman
September 2, 2004


LINCOLN DONOVAN
PRIMARY EXAMINER
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